

Exhibit 2

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE NEW YORK TIMES COMPANY,

Plaintiff,

v.

MICROSOFT CORPORATION, OPENAI, INC.,
OPENAI LP, OPENAI GP, LLC, OPENAI, LLC,
OPENAI OPCO LLC, OPENAI GLOBAL LLC,
OAI CORPORATION, LLC, and OPENAI
HOLDINGS, LLC,

Defendants.

Civil Action No. 1:23-cv-11195-SHS

**PLAINTIFF THE NEW YORK TIMES COMPANY'S SUPPLEMENTAL RESPONSES
AND OBJECTIONS TO MICROSOFT CORPORATION'S FIRST SET OF
INTERROGATORIES**

Pursuant to Federal Rules of Civil Procedure 26 and 33, Plaintiff, The New York Times Company (“The Times”) provides the following supplemental responses and objections to Defendant Microsoft Corporation’s (“Microsoft”) First Set of Interrogatories (the “Interrogatories”). These responses and objections are based on The Times’s knowledge, investigations, and analysis to date. The Times reserves all rights to supplement and amend its responses and objections accordingly.

GENERAL OBJECTIONS

1. The Times objects to the Interrogatories to the extent any of them seek information subject to attorney-client privilege, work product, or any other applicable privilege or protection.
2. The Times objects to the Interrogatories to the extent any of them seek information not within The Times’s possession, custody, or control.

3. The Times objects to the Interrogatories to the extent any of them request information beyond what The Times is required to provide under Local Rule 33.3.

4. The Times's responses are subject to the following objections to the "Instructions and Definitions" provided with the Interrogatories.

5. The Times objects to the definitions of "You," "Your," "NYT," or "New York Times" insofar as they include The Times's "corporate parent," of which there is none. The Times further objects to these definitions as contrary to Local Rule 26.3, particularly insofar as they include The Times's "attorneys" and "agents." The Times construes "You," "Your," "NYT," or "New York Times" as those terms are defined in Local Rule 26.3.

6. The Times objects to the definition of "Generative AI Technologies" insofar as the definition is not limited to *Defendants'* models, products, or services. The Times construes "Generative AI Technologies" to mean "Defendants' artificial intelligence models that use machine learning techniques to predict and generate natural-language outputs in response to user inputs."

7. The Times objects to the definition of "Generative AI System(s)" as vague and ambiguous, including because the definition does not explain what it means for a consumer-facing application to be "built on" an artificial intelligence model. The Times further objects to this definition insofar as it is not limited to *Defendants'* models, products, or services. In any event, the term "Generative AI System(s)" appears nowhere in these Interrogatories.

8. The Times objects to the instruction that "the past tense of a verb includes the present tense and vice versa," as well as the instruction that the "present tense shall always include the past tense and vice versa." The Times will respond to each Interrogatory as written.

9. The Times objects to the instruction requesting that The Times provide a “privilege log” insofar as that instruction asks The Times to provide more information than what is required by law. The Times will comply with its obligations under Federal Rule of Civil Procedure 26 and the terms of any protective order entered in this case.

10. The Times objects to the stated time period for these Interrogatories, which Microsoft has listed as June 2, 2019 to the present. The Times is willing to meet and confer regarding a more appropriately tailored time frame for these Interrogatories.

SUPPLEMENTAL RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 5:

Identify individuals with knowledge of information regarding Your retention of data regarding use of Generative AI Products and Services by You, including any data retention policies and procedures regarding use of Generative AI Products and Services by You.

RESPONSE TO NO. 5:

The Times incorporates the General Objections set forth above. The Times further objects to this Interrogatory as vague and ambiguous and potentially overbroad because the Interrogatory refers to “use” of Generative AI Technologies without clarifying the type of use the Interrogatory is asking about. The Times further objects to this Interrogatory to the extent that it seeks material protected by the reporters’ privilege pursuant to the First Amendment of the U.S. Constitution, federal common law, the New York Shield Law, N.Y. Civ. Rights § 79-h, or the California Shield Law, Cal. Const. art. I, § 2, Cal. Evid. Code § 1070.

Subject to these objections, The Times responds as follows: other than in-house legal counsel, Zach Seward, Alex Hardiman, Jason Sobel, and Gordon Diggs.

SUPPLEMENTAL RESPONSE TO NO. 5:

The Times incorporates the General Objections set forth above. The Times further objects to this Interrogatory as vague and ambiguous and potentially overbroad because the Interrogatory refers to “use” of Generative AI Technologies without clarifying the type of use the Interrogatory is asking about. The Times further objects to this Interrogatory to the extent that it seeks material protected by the reporters’ privilege pursuant to the First Amendment of the U.S. Constitution, federal common law, the New York Shield Law, N.Y. Civ. Rights § 79-h, or the California Shield Law, Cal. Const. art. I, § 2, Cal. Evid. Code § 1070.

Subject to these objections, The Times responds as follows: other than in-house legal counsel, Zach Seward, Alex Hardiman, Jason Sobel, Gordon Diggs, and Hannah Poferl.

INTERROGATORY NO. 6:

Identify witnesses with knowledge of information regarding internet search performance metrics for Your digital publications, including but not limited to organic traffic, click-through traffic, impressions, snippet performance, keyword rankings, digital advertisement performance, and all revenue tracking related thereto.

RESPONSE TO NO. 6:

The Times incorporates the General Objections set forth above. The Times further objects to the Interrogatory because it asks The Times to identify “witnesses” long before any deadline to disclose witnesses for trial. The Times further objects to this Interrogatory insofar as it calls for information outside of The Times’s possession, custody, and control.

Subject to these objections, The Times responds as follows: other than in-house legal counsel, Sam Felix, and Hannah Poferl.

SUPPLEMENTAL RESPONSE TO NO. 6:

The Times incorporates the General Objections set forth above. The Times further objects to the Interrogatory because it asks The Times to identify “witnesses” long before any deadline to disclose witnesses for trial. The Times further objects to this Interrogatory insofar as it calls for information outside of The Times’s possession, custody, and control.

Subject to these objections, The Times responds as follows: other than in-house legal counsel, Sam Felix, Hannah Poferl, Rebecca Grossman-Cohen, and Alex Hardiman.

INTERROGATORY NO. 7:

Identify witnesses with knowledge of information regarding Your access control for Your digital publications, including but not limited to Your use of Microsoft’s Bing Webmaster Tools.

RESPONSE TO NO. 7:

The Times incorporates the General Objections set forth above. The Times further objects to the Interrogatory because it asks The Times to identify “witnesses” long before any deadline to disclose witnesses for trial. The Times further objects to this Interrogatory as vague and ambiguous because it does not explain the meaning of “access control.” To the extent the Interrogatory seeks information about The Times’s information security practices, The Times objects to the Interrogatory on the ground that it seeks irrelevant information.

The Times is willing to meet and confer with Microsoft about this Interrogatory.

SUPPLEMENTAL RESPONSE TO NO. 7:

The Times incorporates the General Objections set forth above. The Times further objects to the Interrogatory because it asks The Times to identify “witnesses” long before any deadline to disclose witnesses for trial. The Times further objects to this Interrogatory as vague and ambiguous because it does not explain the meaning of “access control.” To the extent the

Interrogatory seeks information about The Times's information security practices, The Times objects to the Interrogatory on the ground that it seeks irrelevant information.

Subject to these objections, The Times responds as follows: other than in-house legal counsel, Sam Felix, Hannah Poferl, Justin Heidman, and Elijah Soria.

INTERROGATORY NO. 8:

Identify witnesses with knowledge of information regarding Your use of metatags to prevent web crawlers from accessing, indexing, archiving, or caching some or all of Your digital publications, including but not limited to the implementation and management of the metatags identified at <https://www.nytimes.com/robots.txt>.

RESPONSE TO NO. 8:

The Times incorporates the General Objections set forth above. The Times further objects to the Interrogatory because it asks The Times to identify "witnesses" long before any deadline to disclose witnesses for trial. The Times further objects to the Interrogatory insofar as it seeks irrelevant information.

Subject to these objections, The Times responds as follows: other than in-house legal counsel, Sam Felix, and Hannah Poferl.

SUPPLEMENTAL RESPONSE TO NO. 8:

The Times incorporates the General Objections set forth above. The Times further objects to the Interrogatory because it asks The Times to identify "witnesses" long before any deadline to disclose witnesses for trial. The Times further objects to the Interrogatory insofar as it seeks irrelevant information.

Subject to these objections, The Times responds as follows: other than in-house legal counsel, Sam Felix, Hannah Poferl, Justin Heidman, and Elijah Soria.

INTERROGATORY NO. 10:

Identify witnesses with knowledge of information regarding any actual harm to Your reputation for accuracy, originality, and quality as a result of the conduct alleged in the Complaint.

RESPONSE TO NO. 10:

The Times incorporates the General Objections set forth above. The Times further objects to the Interrogatory because it asks The Times to identify “witnesses” long before any deadline to disclose witnesses for trial.

Subject to these objections, The Times is willing to meet and confer about this request.

SUPPLEMENTAL RESPONSE TO NO. 10:

The Times incorporates the General Objections set forth above. The Times further objects to the Interrogatory because it asks The Times to identify “witnesses” long before any deadline to disclose witnesses for trial.

Subject to these objections, The Times responds as follows: other than in-house legal counsel, William Bardeen, Rebecca Grossman-Cohen, and Hannah Poferl.

Dated: August 23, 2024

/s/ Ian Crosby

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CERTIFICATE OF SERVICE

I declare that I am employed with the law firm of Susman Godfrey L.L.P., whose address is 1900 Avenue of the Stars, Suite 1400, Los Angeles, CA 90067. I am not a party to the within cause, and I am over the age of eighteen years.

I further declare that on August 23, 2024, I served a copy of:

**PLAINTIFF THE NEW YORK TIMES COMPANY'S SUPPLEMENTAL RESPONSES
AND OBJECTIONS TO MICROSOFT CORPORATION'S FIRST SET OF
INTERROGATORIES**

<input checked="" type="checkbox"/>	BY ELECTRONIC SERVICE [Fed. Rule Civ. Proc. Rule 5(b)(2)(E)] by electronically mailing a true and correct copy through Susman Godfrey L.L.P.'s electronic mail system to the email address(es) set forth below, or as stated on the attached service list per agreement in accordance with Fed. Rule Civ. Proc. Rule 5(b)(2)(E).
<input type="checkbox"/>	BY PERSONAL SERVICE I caused to be delivered such envelope by hand to the offices of the addressee.
	See Attached Service list

I declare under penalty of perjury that the following is true and correct. Executed at Los Angeles, California, this 23 day of August, 2024.

/s/ Emily K. Cronin

Emily K. Cronin

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